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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/912,918

07/25/2001

Newton Howard

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11/09/2009

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EXAMINER

OYEBISI, OJO O

ART UNIT

PAPER NUMBER

3696

MAIL DATE

DELIVERY MODE

11/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 09/912,918 | Applicant(s) HOWARD, NEWTON | |
| | Examiner OJO O. OYEBISI | Art Unit 3696 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/14/09 has been entered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-14, 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide support for the invention as now claimed, i.e., “determining that the first natural language message is of a first report type and determining that the second natural language message is of a second report type, wherein a type for the second report type is determined in response to determining that the first natural language is of a second type.” The specification as originally filed does disclose “The input interface 205 passes the received communication to the preprocessor 210. This preprocessor parses communications to determine the type of report that was entered by using

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data types inherent to the selected programming language” (see paras 00390), but not “determining that the first natural language message is of a first report type and determining that the second natural language message is of a second report type, wherein a type for the second report type is determined in response to determining that the first natural language is of a second type,” as now implied. More specifically, “the first natural language, second natural language, first report type, and second report type,” as now implied. The examiner searched the length and width of the applicant's disclosure but failed to find a single passage that provides support for these limitations as now claimed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Varon (US PAT 6,420,993 B1) in view Ludwig (US 6,408,404 B1).

Re Claims 1 and 17: Varon discloses an automated system for notifying a first user who issued a first natural message pertaining to a future event of a potential conflict with a second natural language message pertaining to a current event comprising:

- An input device for receiving the first natural message entered by the first user (Column 4, lines 24-26; "flight data plans," flight data processor (24a) receives plans submitted by aircraft personnel to designate routes.")
- A passive (radar, transponders) input device for receiving the second natural language message (Column 4, lines 8-21; flight data and plans for second plane)
- An input module for determining that the first natural language message is of a first report type, where in a first plurality of messages are obtained from the first natural language message in response to determining that the first natural language message is of a first report type and determining that the second natural language message is of a second report type, wherein a type for the second report type is determined in response to determining that the first natural language is of a second type (Column 4, lines 24-26; Ref 24a); and an intention determination system, determining if execution of the messages complies with the intent of a user issuing the first natural language message prior to the execution of the first natural language message based in part, on a comparison of the content extracted from each of the first natural language message and the second natural language message, and issuing a potential conflict alert if the execution of the first natural language message fails to comply

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with the intent of the user issuing the first natural language message (Column 4 lines 26-38; Column 4 line 66-Column 5 line 18). Varon does not explicitly disclose converting each of the messages in the first plurality of messages and second natural language messages from a natural language format to a spatial temporal format including an event, a type of event, and a time of event, wherein the conversion generates restructured messages that are combined. However, Ludwig discloses converting each of the messages in the first plurality of messages and second natural language messages from a natural language format to a spatial temporal format including an event, a type of event, and a time of event (i.e., Computer system 170 includes an illustrated hunter agent 175 and a message database 180. The hunter agent 175 is sent by the presence 150 to the computer system 170. The message database 180 can receive information from many sources such as a satellite link. Functionally, an agent is computer software, transportable over a computer network from one computer to another, to implement a desired function on the destination computer. An agent can also be defined as a transferable self-contained set of executable code instructions. The hunter agent 175 uses information contained in the message database 180 to create and send an event stream object (ESO) 182 to the presence 150. A relationship 184 exists between the ESO 182 and the message database 180. The hunter agent 175 has to go out and look for information contained in databases throughout the network. The hunter agent can transform the events into a standardized format for use by the presence 150 which can include at least some of the following information associated with each event: type, title, datetime, keywords, summary, priority, and duration, see col.5 lines 26-46). Thus it would have been obvious to one of ordinary skill in the art to combine the teachings of Varon and Ludwig since the claimed

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invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable. The examiner further contends that using a language converter to convert messages into a positions based format is old and well known in military conflicts, and would have been obvious to anyone of ordinary skill to allow tactical planners to assess the geographical position of the parties involved in order to make a coordinated plan. Utilizing a position-based format allows each party to be marked respective to one another, which allows for more efficient planning.

Re Claim 2: Varon discloses the claimed system supra but does not explicitly disclose wherein the messages include text messages. However the submission of text messages is a notoriously old and well-known form of electronic communication and would have been obvious to one of ordinary skill at the time of invention to include to the system of Varon. One would be motivated to do this in order to provide short and succinct messages in a language that is easily viewed and interpreted by an input device.

Re Claim 3: Varon discloses the claimed system wherein the messages are converted to executable messages for machine processing (this is an inherent feature in that in a digital world messages are usually converted to executable messages for machine processing).

Re Claim 4: Varon discloses the claimed system and further discloses wherein the input device includes a device selected from the group consisting of a PDA, cellular phone and a radio transmitter (Column 3, lines 65 - Column.4 line 7).

Re Claim 5: Varon discloses the claimed system supra and further discloses wherein the

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passive input device includes a device selected from the group consisting of a cellular phone and an electronic pad, a sensor ("transponder" Column 4, lines 17- 19; "second portions of the target signal."), and a satellite.

Re Claim 6: Varon discloses the claimed system supra but does not explicitly disclose an output device for generating a record of the alert. However it was well known in the art at the time of invention to use a printer for such applications and therefore it would have been obvious to anyone of ordinary skill to include this feature to the system of Varon. One would be motivated to do this in order to have a record of past alerts to review the past conflicts in order to adjust future flight plans and timing patterns to avoid similar problems in the future.

Re Claim 7: Varon discloses the claimed system supra but does not explicitly disclose wherein each of the user interfaces includes a node-based navigation system that allows user customization of how the alert is displayed. However it was well known for node-based navigation systems to be used by pilots in order to display an aircrafts position relative to other aircraft. Furthermore it was well known for a user to customize a display interface so that each individual can quickly and easily interpret the data on the display in a manner that is most comfortable to them. Therefore it would have been obvious to include these features to the system of Varon so that each pilot can be notified of a potential conflict and furthermore can view the upcoming hazard so that evasive action can be taken.

Re Claim 8: Varon discloses the claimed system supra and discloses wherein at least one of the first users issues at least one of the messages from a remote location (planes are inherently in remote locations).

Re claim 9. Varon discloses the claimed method supra and further discloses

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- A rule base analyzer for periodically retrieving and processing content extracted from the first natural language message and the second natural language messages and reference information to determine if execution of the messages creates the potential conflict (Column 4, lines 30-37, lines 60-65). Varon does not explicitly disclose:

- A database for storing both the messages, the restructured messages and reference information. Ludwig discloses a database for storing information related to the messages and reference information (Column 5, lines 48-58; Ref 190). It would have been obvious to anyone of ordinary skill at the time of invention to include this feature to the system of Varon so that there is a way to recall the messages in the instance that there is a problem in the language translation. If the language transformation was improper and the original messages were not stored, the original information would be lost and there would not be any means to determine the original intent of the messages. This would be hazardous as potential conflicts with aircrafts are very time dependent and any delay in issuing an alert would be dangerous.

Claims 10-14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ludwig (6,408,404 B1) in view of Varon.

Re Claim 10: Ludwig discloses a system and method for ensuring and managing situation awareness for checking of potentially conflicting natural language message issued by a plurality of users comprising:

- An input module for obtaining a first natural language message related to a future event and a second natural language message, wherein a first plurality of messages from the first natural language message are obtained from the first natural language message in response to determining that the first natural language message is of a first report type and determining

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that the second natural language message is of a second report type, wherein a type for the second report type is determined in response to determining that the first natural language is of a second type (Column 4, lines 24-26; Ref 24a) (Column 7, lines 51-57)

- A language converter for converting each of the messages in the first plurality of messages and second natural language message from a natural language format to a spatial temporal format including an event, a type of event, and a time of event, wherein the conversion generates restructured messages (i.e., Computer system 170 includes an illustrated hunter agent 175 and a message database 180. The hunter agent 175 is sent by the presence 150 to the computer system 170. The message database 180 can receive information from many sources such as a satellite link. Functionally, an agent is computer software, transportable over a computer network from one computer to another, to implement a desired function on the destination computer. An agent can also be defined as a transferable self-contained set of executable code instructions. The hunter agent 175 uses information contained in the message database 180 to create and send an event stream object (ESO) 182 to the presence 150. A relationship 184 exists between the ESO 182 and the message database 180. The hunter agent 175 has to go out and look for information contained in databases throughout the network. The hunter agent can transform the events into a standardized format for use by the presence 150 which can include at least some of the following information associated with each event: type, title, datetime, keywords, summary, priority, and duration, see col.5 lines 26-46).
- A database for storing both the first natural language message and the second language message, the restructured messages and reference information (Ref 195; Column 5, lines 48-58)

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- A rule-based analyzer for periodically retrieving and processing content extracted from the first natural language message and second natural language message, restructured messages, and reference information wherein, processing includes determining if execution of the messages complies with the intent of a user issuing the messages based, in part, on a comparison of the restructured messages with stored reference information (Column 4, lines 25-38) and wherein the analyzer generates an alert if execution of plurality of messages obtained from the first natural language and second natural language message fails to comply with the intent of the user (Column 7, line 65- Column 8 line 14).

Ludwig does not disclose wherein the system is an intention determination system for predictive checking of potentially conflicting messages. Varon discloses an air traffic control system that periodically monitors air traffic based on current situational awareness as well as intention-based information (i.e. flight path; Column 4, lines 24- 26) and issues alerts about potential conflicts. It would have been obvious to anyone of ordinary skill in the ordinary art at the time of invention to include the intention determination aspect of Varon to the disclosure of Ludwig in order to provide the system with a more forward looking timeline of potential events and military conflicts. Ludwig discloses that his invention is intended to have a dynamic temporal flow and present information is events spread over a timeline with a past present and a future (Column 6, lines 48-54). By providing high probability future events (such as flight plans for military operations), the system can extend even further and provide the user with even more information from which to make decisions. This would further assist in assessing events and issuing rule-based actions. The references also do not disclose wherein the language converter converts the messages into a positions based format. However this step is old and well known in military

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conflicts, and would have been obvious to anyone of ordinary skill to allow tactical planners to assess the geographical position of the parties involved in order to make a coordinated plan. Utilizing a position-based format allows each party to be marked respective to one another, which allows for more efficient planning.

Re Claim 11: Ludwig in view of Varon discloses the claimed system supra and while not explicitly disclosing wherein the messages include orders issued by military personnel, Ludwig discloses the advantages of his system for low intensity conflict monitoring, military intelligence and strategic threat assessment (Column 1, lines 44- 48). It was old and well known in the art for military personnel to handle issues of military intelligence and strategic threat assessment and therefore would have been obvious to anyone of ordinary skill at the time of invention that messages relating to such matter are issued by military personnel.

Re Claim 12: Ludwig in view of Varon discloses the claimed system supra and Ludwig further discloses wherein the input device includes a device selected from the group consisting of a cellular phone, a radio transmitter, an electronic pad, a sensor and a satellite (Column 5, lines 29-31).

Re Claim 13: Ludwig in view of Varon discloses the claimed system supra and Ludwig further discloses wherein the user allows user customization of how the alert is displayed (Column 8, line 14-17 and 29-31). While not explicitly disclosing a node based navigation system, these types of systems are old and well known in the art (such as a grid based satellite tracking system) and would have been obvious to anyone of ordinary skill at the time of invention. One would be motivated to include this feature

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in order to coordinate disjointed parties and locate their positions relative to one another.

Re Claim 14: Ludwig in view of Varon discloses the claimed method supra wherein at least one of the messages is issued from a remote location (Column 2, lines 10-14 "disjointed sources").

Re claim 18. Ludwig discloses the system according to claim 1, further comprising at least one user interface for respectively notifying the first user by displaying the alert (Column 8, lines 15-18).

Response to Arguments

Applicant's arguments filed 08/14/09 have been fully considered but they are not persuasive. The applicant argues in substance that the prior arts of record fail to disclose "determining that the first natural language message is of a first report type, where in a first plurality of messages are obtained from the first natural language message in response to determining that the first natural language message is of a first report type and determining that the second natural language message is of a second report type, wherein a type for the second report type is determined in response to determining that the first natural language is of a second type." The applicant's specification as originally filed does not provide support for this limitation. This argument is moot until the necessary clarifications are received from the applicant. The applicant further argues in substance that the prior arts of record fail to disclose "comparing any portion of the data flight plans for the respective aircrafts, and a composite flight plan is computed and that violations of separation standards are predicted." The examiner contends that these limitations are not claimed by the applicant. It looks like the applicant is arguing limitations that are not found in the claims. Clarification is required.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571)272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571)272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OJO O OYEBISI/
Primary Examiner, Art Unit 3696